



COLLIER COUNTY

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RE: EISMOU - Collier County

This letter is written at the direction of the Board of County Commissioners of Collier County, Florida. This letter involves the working draft entitled "Memorandum of Understanding - Environmental Impact Statement - Southwest Florida" dated 9/26/97.

Please provide the Collier County Attorney with a copy of:

1. The document or documents whereby the Corps of Engineers made its decision to prepare the subject Environmental Impact Statement, which EIS is referred to in the fourth WHEREAS clause at page 2 of the MOU. We believe it was agreed that the word "programmatic" (EIS) would be deleted from the MOU.
2. The 40 CFR 1508.22 "Notice of Intent" published in the FEDERAL REGISTER (as required by 40 CFR 1501.7).

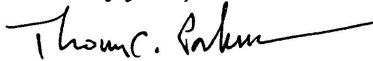
Proposed paragraph 1.2 of the MOU reads: "The geographic area of the EIS is generally defined to be bounded by the Estero River Basin to the north, Estero Bay to the west, Imperial River Basin to the south and CREW to the east, but the final limits will be defined collaboratively during the first two months via an open public scoping process." That area is hereinafter called the "defined area."

Within the context of paragraph 1.2, the physical boundaries of the defined area appear to be reasonably controllable as to size, but the eventual size of that area appears to be clouded by other provisions of the proposed MOU, such as: Paragraph 1.6 says that "Analysis will be holistic and regional." Paragraph 1.16 envisions that the EIS will provide "some definitive answer for what the Florida Panther and other threatened and endangered species require (**area-wide species needs**)" and that the EIS will "identify areas of particular sensitive environmental value to be targeted for preservation or restoration." Do those provisions imply that the scope of the EIS will go outside of the defined area as that area is now specified in paragraph 1.2 of the MOU?

The MOU implies that the primary (if not the only) purpose of the EIS is to facilitate a more streamlined permitting process regarding permits to be issued in the future by the Army Corps of Engineers in the defined area. Is that the only purpose of the EIS? If the answer is "yes", why will any fact finding, including regarding endangered species, necessitate going outside of the defined area?

Part 1500 of 40 CFR contemplates that the subject EIS must be related to at least one already existing "proposal"; is to plan actions and make decisions; and is a means of assessing the environmental impact of proposed agency action, rather than justifying decisions already made. What proposed agency action(s) are driving the subject EIS? Please provide the Collier County Attorney's Office with a list of all ongoing programs and/or actions of the Federal Government into which the subject EIS is planned to be infused, including possible federal legislation (in the context of 40 CFR Section 1506.8).

Sincerely yours,



Thomas C. Palmer
Assistant County Attorney

cc: Board of County Commissioners
David C. Weigel, County Attorney